

## INITIAL STATEMENT OF REASONS

The following Initial Statement of Reasons has been prepared in regard to the proposal of the New Motor Vehicle Board ("Board") of the State of California to amend sections 551.11, and 551.12, and add section 550.20 of Article 1, Chapter 2, Division 1, of Title 13 of the California Code of Regulations.

### **INTRODUCTION**

The Board is an agency within the Department of Motor Vehicles ("Department") with oversight provided by the Business, Transportation and Housing Agency. The Board consists of nine members, seven of who are appointed by the Governor, one by the Speaker of the Assembly, and one by the Senate Rules Committee (Veh. Code §§ 3000 and 3001).

The duties of the Board include the following:

1. To adopt rules and regulations in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code governing those matters that are specifically committed to its jurisdiction.
2. To hear and determine "appeals" which are filed by specified occupational licensees within the new motor vehicle industry as a result of adverse disciplinary action taken by the Department against the license of such entity. (Veh. Code § 3050(b)).
3. Consider any matter concerning the activities or practices of any person applying for or holding a specified type of occupational license. These disputes are considered by the Board as a result of the filing of a "petition", which may be done by any person. (Veh. Code § 3050(c)).
4. To hear and decide "protests" filed by new motor vehicle dealers against their respective franchisors, pursuant to the provisions of the Automotive Franchise Act. (Veh. Code §§ 3050(d), 3060, 3062, 3064, 3065, 3065.1, 3066, 3070, 3072, 3074, 3075, and 3076). These protests pertain to specified types of franchise disputes between the dealer (franchisee) and the manufacturer or distributor (franchisor).

## **SECTION 550.20**

### **PURPOSE OF THE REGULATION**

The purpose of the regulation is to make the mailing of notices or other communications to the Board by certified mail under the Vehicle Code equivalent to, and in compliance with, requirements of registered mail. This new regulation does not constitute a change in the law, but rather brings Board regulations and operations into accord with Civil Code section 17.

### **NECESSITY**

New section 550.20 is necessary to implement and make specific Vehicle Code sections 3052, 3057, 3058, and 3066-3068, to streamline Board operations, and bring regulatory law into agreement with the general civil law and current Board practices.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The Board at its January 26, 2006, General Meeting, approved regulatory changes proposed herein for section 550.20.

### **ALTERNATIVES TO THE REGULATION**

In accordance with Government Code section 11346.5, subdivision (a) (13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

At the January 26, 2006, General Meeting, wherein the Board preliminarily adopted the proposed regulatory text, no other alternatives were considered. Board Members were advised that members of the public would be invited to submit written and oral comments during the Public Notice and Comment Period, and or the Public Hearing on the proposed regulatory changes. Further, while the Board instructed staff to go forward with the proposed rulemaking, it did not necessarily indicate final Board action. If any written or oral comments were received, the full Board would consider the comments and reconsider the text of the proposed rulemaking. Lastly, if the staff decided that modifications to the proposed text were necessary, the Board would consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

## **SECTION 551.11**

### **PURPOSE OF THE REGULATION**

The purpose of the regulation is to require mandatory settlement conference statements to be served on the opposing parties and provide that the original proof of service be filed with the Board. This amendment furthers the public policy encouraging the settlement of disputes in the most expeditious manner, and encourages parties to make a prudent good faith effort to reach settlements. This amendment does not constitute a change in the law, but does insure that offers of settlement are exchanged in a timely manner.

### **NECESSITY**

The amendment to sections 551.11 is necessary to implement and make specific Vehicle Code section 3050.4.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The Board at its January 26, 2006, General Meeting, approved regulatory changes proposed herein for section 551.11.

### **ALTERNATIVES TO THE REGULATION**

In accordance with Government Code section 11346.5, subdivision (a) (13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

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consider those modifications at a noticed meeting. If there were no written or oral comments received, then the rulemaking process will proceed without further Board involvement.

## **SECTION 551.12**

### **PURPOSE OF THE REGULATION**

The purpose of the regulation is to clarify the provisions for a peremptory challenge to a Board Administrative Law Judge (ALJ), and provide for a identifying the assigned ALJ in the Order for Time and Place of Hearing. This amendment does not constitute a change in the law.

### **NECESSITY**

The amendment to sections 551.12 is necessary to implement and make specific Vehicle Code section 3066, to clarify procedures for peremptory challenges of Board ALJs, and provide notice of the assigned ALJ in sufficient time to permit such challenged ALJs to be replaced.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.**

The Board at its January 26, 2006, General Meeting, approved regulatory changes proposed herein for section 551.12.

### **ALTERNATIVES TO THE REGULATION**

In accordance with Government Code section 11346.5, subdivision (a) (13), the Board must determine that no reasonable alternative it considered, or that has otherwise been identified and brought to the attention of the Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

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